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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/075,345	02/15/2002	Kaneyoshi Yagi	KAW-270-USAP	8913
28892	7590	09/30/2004	EXAMINER	
SNIDER & ASSOCIATES P. O. BOX 27613 WASHINGTON, DC 20038-7613				EDUN, MOHAMMAD N
		ART UNIT		PAPER NUMBER
		2655		

DATE MAILED: 09/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/075,345	YAGI ET AL.
	Examiner	Art Unit
	MUHAMMAD N EDUN	2655

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on \_\_\_\_\_.
- 2a) This action is **FINAL**.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1,2,4,5 and 7-10 is/are rejected.
- 7) Claim(s) 3 and 6 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____.
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____.

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

**Claims 1, 2, 4, 5 and 7-10 are rejected under 35 U.S.C. 102(b) as being anticipated Broome et al. (6,088,322).**

Broome et al. discloses the invention as claimed. Figs. 4-12 show the diffraction type optical pickup lens having the converging lens formed with an aspheric surface of a first wavelength being converged at a first position (see Fig. 5), wherein the converging lens is formed with a zone plate having a wavelength selectively that a luminous flux having a second wavelength converged at a second position whereas the luminous flux having the first wavelength is transmitted there through (see Fig. 8), and the converging lens is transparent to the luminous fluxes having the first and second wavelengths (see also Figs. 4, 5 and 8), as set forth in the claims. Further the reference shows the plate zone being constituted by a concentric grating having a stepped cross section (see Figs. 12), the first and second beam of different wavelength focuses on different positions of different medium having different thickness from each other, and also the different medium includes all CD formats (inherently including CD-R)

and DVD (see columns 1 and 3-4), as set forth in the dependent claims. See also the description of the apparatus and figures for further details relating the limitations as set forth in the claims.

*Allowable Subject Matter*

**Claims 3 and 6 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.**

**The following is a statement of reasons for the indication of allowable subject matter:**

The prior art of record alone or in combination does not teach or suggest the diffraction type optical pickup lens of claim 1 having the further limitations as set forth in claims 3 and 6, and as disclosed in the specification.

***Conclusion***

**The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.**

Ota et al. (6,429,972) discloses an optical pickup having a diffraction lens having a step section for use of optical beams having different wavelengths.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MUHAMMAD N EDUN whose telephone number is 703-308-1550. The examiner can normally be reached on FLEXITIME.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, DORIS TO can be reached on 703-305-4827. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-9051 for regular communications and 703-308-9051 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-4700.



***MUHAMMAD N EDUN***  
***Primary Examiner***  
***Art Unit 2655***